



Los Angeles County Department of Regional Planning

Planning for the Challenges Ahead



March 1, 2010

Richard J. Bruckner
Director

TO: Supervisor Gloria Molina, Chair
Supervisor Mark Ridley-Thomas
Supervisor Don Knabe
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

FROM:  Richard J. Bruckner
Director of Planning

SUBJECT: **RESPONSE TO BOARD MOTION TO INITIATE PROGRAM 10:
INCLUSIONARY HOUSING PROGRAM, AND PROGRAM 12: SMALL
LOT SUBDIVISIONS, OF THE HOUSING ELEMENT (AUGUST 5, 2008,
ITEM #68)**

At the public hearing for the Los Angeles County Housing Element on August 5, 2008, the Board instructed the Department of Regional Planning (DRP) to initiate the required feasibility studies for establishing a program for small lot subdivisions and an inclusionary housing policy, and report back to the Board within a year. The staff completed the study for Program 12: Small Lot Subdivisions, and submitted a copy to the Board on October 1, 2009.

Program 10: Inclusionary Housing Program

The intent of Program 10 of the Housing Element is to consider the feasibility of establishing an inclusionary housing program for the unincorporated areas.

Since August 2008, the DRP staff has prepared an extensive literature review of research on inclusionary housing, distributed and analyzed a stakeholder survey, and met with numerous stakeholders, including but not limited to planners from other local jurisdictions, building industry representatives, housing advocates, researchers and housing developers to discuss the pros and cons of inclusionary housing. The DRP staff also worked closely with CDC staff and the Housing Advisory Committee to identify key issues.

A recent court decision in *Palmer/Sixth Street Properties vs. City of Los Angeles*, which found that, in some cases, affordability requirements to rental housing violate the Costa-Hawkins Act, has profoundly impacted many local jurisdictions. The Costa-Hawkins Act affords rental property owners the right to establish the initial rate of a new or vacated unit. The decision does not impact inclusionary housing policies that require affordable housing fees, affordable set-asides for for-sale projects, or affordable housing set-asides when the applicants enter into an agreement to provide affordable units in exchange for financial assistance, incentives or as part of a development agreement. While many groups and local jurisdictions have discussed pursuing legislative changes to the Costa-Hawkins Act to exempt local inclusionary housing ordinances, there are no bills proposed at this time.

Below is a summary of how other local jurisdictions have responded to the *Palmer/Sixth Street Properties v. City of Los Angeles* decision:

Berkeley

The City of Berkeley, which has an inclusionary housing ordinance with mandatory rental affordable set-asides, responded to *Palmer/Sixth Street Properties v. City of Los Angeles* by initiating the preparation of new affordable housing policies, including an affordable housing mitigation fee, a special tax to fund affordable housing development, and revisions to its density bonus program. In February 2010, the City Council voted to allocate \$30,000 to prepare a nexus study to support these three initiatives.

Los Angeles

The City of Los Angeles, which has initiated the preparation of a Mixed Income Housing Ordinance, recently issued a report to the City Council Planning and Land Use Management Committee to identify the following options for the ordinance in light of the *Palmer* decision: 1) change the Costa-Hawkins Act; 2) enact an affordable housing impact fee as an alternative to affordable housing set-asides for rental housing, along with a nexus study; 3) impose a Citywide ordinance that focuses solely on for-sale projects; or 4) require affordable set-asides for rental and for-sale housing with a future effective date. The report also highlights the lack of staff resources to complete the ordinance, given the current economic climate.

San Francisco

The City and County of San Francisco, which has an inclusionary housing ordinance with mandatory rental affordable set-asides, has responded to *Palmer/Sixth Street Properties v. City of Los Angeles* in two ways. On December 15, 2009, the Board of Supervisors passed a resolution to urge the State legislature to amend the Costa-Hawkins Act to exempt local inclusionary zoning ordinances. In addition, San Francisco has enacted interim measures to require affordable housing fees for rental housing, and will consider future amendments to its inclusionary housing ordinance.

In light of the *Palmer* decision, the staff will need additional time to track the anticipated legislative responses to the court's decision, and to conduct additional research to assess the feasibility of an inclusionary housing policy for the unincorporated areas. The Department will provide another status report no later than August 1, 2010.

If you have any questions regarding this study, please contact Connie Chung at (213) 974-6417 or cchung@planning.lacounty.gov.

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